

# BOARD OF ALDERMEN

ITEM NO. D(3)

## AGENDA ITEM ABSTRACT

MEETING DATE: May 3, 2006

**TITLE: Charter Amendment Clarifying the Filling of Board Vacancies**

<b>DEPARTMENT: Town Attorney</b>	<b>PUBLIC HEARING: NO</b>
<b>ATTACHMENTS:</b> <b>A. Resolution</b> <b>B. Charter Amendment</b> <b>C. Existing Section 2-2(d) of the Charter</b>	<b>FOR INFORMATION CONTACT: Mike Brough 929-3905</b>

### PURPOSE

At its meeting on April 11th, the Board asked the town attorney to draft an amendment to the town charter clarifying the language of Section 2-2(d), which provides that, when a vacancy on the board is filled at a general election, the person receiving the fourth highest number of votes at the general election is elected for the two years remaining on the term of the vacant seat. A charter amendment that clarifies the intent of the current provision, but does not change its meaning, is attached.

### INFORMATION

Subsection 2-2(d) of the town charter was designed to fill in a gap in the state statutes. Under general law, vacancies on the board of aldermen are filled by appointment of the board. However, under G.S. 160A-63, if a vacancy occurs more than 90 days prior to a general election that comes in the middle of the term of the vacant seat, then the board's appointment serves only until a person can be elected to serve the remaining two years of the term of the vacant seat. Thus, under those circumstances, in such a general election there will be four seats to fill – three for terms of four years and one for a two year term. What the general law does not say is who among the persons receiving the four highest number of votes gets the two year term. The purpose of subsection 2-2(d) was to make explicit what may be implicit – that the fourth highest vote getter is elected to the two-year term.

Subsection 2-2(d) has nothing to do with the board's discretion to make appointments to fill vacancies. However, confusion about its meaning may have arisen because the charter does not contain the context in which it was written, i.e. it does not refer to Section 160A-63 of the General Statutes, which deals with the filling of vacancies. The proposed amendment seeks to correct this problem by adding clarifying language to subsection 2-2(d) and by adding a new subsection 2-2(e) that summarizes and references G.S. 160A-63. As indicated above, the amendment only clarifies the existing charter provision; it makes no substantive change.

### FISCAL IMPACT

None

### RECOMMENDATION

The staff recommends that the Board approve the proposed amendment and direct the town attorney to send it to the town's legislative delegation for introduction in the forthcoming session of the General Assembly.

